

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

PAMELA FOWLER, TERRY CAMPBELL,
KEVIN JONES, and PATRICIA FONTENOT,
on Behalf of Themselves and All Others Similarly
Situating,

Plaintiffs,

vs.

FAMILY DOLLAR STORES, INC. and
FAMILY DOLLAR STORES OF OHIO, INC.,

Defendants.

CIVIL ACTION NO. 3:07CV316
and 3:08MD1932-MU

This matter is before the court upon Defendants' Motion to Dismiss Marcus Williams, filed September 8, 2008. Marcus Williams is an Opt-In Plaintiff in this lawsuit which was filed by Plaintiffs as a collective action under 29 U.S.C. § 216(b) and Rule 23 of the Federal Rules of Civil Procedure. The core allegation in the Complaint is that Family Dollar misclassified Store Managers as exempt and failed to pay them overtime in violation of the Fair Labor Standards Act and Ohio law.

Defendants have moved to dismiss Williams because he was an hourly employee and was never a Store Manager. As such, Williams is not similarly situated to the named Plaintiffs. Counsel for the Plaintiffs have not filed any response in opposition to the Defendants' Motion to Dismiss Marcus Williams. Accordingly,

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss Marcus Williams' claims pursuant to Rule 12(b)(6) is hereby GRANTED and the claims are dismissed with prejudice.

Signed: October 14, 2008



Graham C. Mullen
United States District Judge

